



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
[www.uspto.gov](http://www.uspto.gov)

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/664,302	09/16/2003	Richard Farbaniec	O-3795/1086.015C	4338
7590	10/05/2004		EXAMINER	
Sampson & Associates, P.C. 50 Congress Street Boston, MA 02109			FOOTLAND, LENARD A.	
			ART UNIT	PAPER NUMBER
			3682	

DATE MAILED: 10/05/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

 <b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	10/664,302 Examiner Lenard A. Footland	FARBANIEC ET AL. Art Unit 3682

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 14 July 2004.  
 2a) This action is FINAL.                  2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-25 is/are pending in the application.  
 4a) Of the above claim(s) 21 and 24 is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1-20,22,23 and 25 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____ .  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>9-16-03</u> . | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|  | 6) <input type="checkbox"/> Other: _____ .                                  |

Applicant's election without traverse of invention III and the species of Fig('s). 4 is/are acknowledged. Claim(s) 21, 24 are withdrawn from further consideration by the examiner.

*Applicant is reminded that if the amendment of any claims results in a change of the species they read upon, that is required to be indicated. In addition, if any new claims are added, it is required that the applicant indicate which of them read on the elected species. Failure to do so will result in a holding of nonresponsiveness.*

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 16-18 are rejected under 35 U.S.C. 112, second paragraph, for lack of antecedent basis for "said adhesive".

The following is a quotation of the appropriate paragraphs of 35 U.S.C. § 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claim(s) 1-11, 14-16, 19-20, 22, 25 are rejected under 35 U.S.C. § 102(e), as being anticipated by Kobayashi et al. The examiner finds all claimed subject matter to be present.

See Fig's. 1-2 and col. 4, lines 43, 48 (carbon, polycarbonate), col. 6, line 15 (adhesive), col. 7, lines 45-50, col. 8, lines 4-6.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim(s) 12-13, 23 are rejected under 35 U.S.C. § 103 as being unpatentable over Kobayashi et al. as set forth in the rejection of claim(s) 1-11, 14-16, 19-20, 22, 25 above, and further in view of official notice of common knowledge in the art, or, in the alternative, engineering design choice.

The examiner finds that it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the additional feature(s) in question of specific metals and polymeric member since it was known in the art to do so to provide the function(s) disclosed.

Alternatively, the examiner finds that the broad provision of this/these features *vis-à-vis* that/those disclosed by the reference solve(s) no stated problem insofar as the record is concerned and, accordingly, would have been an obvious matter of design choice. See *In re Kuhle*, 526 F.2d 553, 188 USPQ 7 (CCPA 1975).

Note applicant's admission at spec page 15 regarding polymers. Also, the selection of a known material based on its suitability for the intended use is a design consideration within the skill in the art. *In re Leshin*, 227 F.2d 197, 199, 125 USPQ 416, 418 (CCPA 1960).

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-2168.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lenard A. Footland, whose telephone number is (703) 308-2683.

**Fax: 703-872-9326**



**Lenard A. Footland**  
Primary Examiner  
Technology Center 3600  
Art Unit 3682

laf  
September 29, 2004